

Discussion

The applicant has invented a specially designed wear pad for insertion between a load to be lifted and the strap, band, rope, wire, cable or chain of a lifting device for protecting both the load and the chain from damage while the load is being lifted. This wear pad is a cylindrically-shaped edge protector with a wedge shape cut out section which contains raised edges on the outside surface thereof at each end of the wear pad. The wear pad is designed to be attached to the load to be lifted and remain with the load during the lifting procedure.

The USPTO rejected all claims of the application under 35 USC § 112 as being indefinite. By amending Claims 1, 10 and 15 to eliminate the indefinite language, the applicant has removed the claim indefiniteness.

The USPTO also rejected Claims 1 - 3, 5, 6, 10 and 11 under 35 USC § 103 as being unpatentable over Hill, U.S. Patent No. 5,098,143 ("Hill"). The USPTO further rejected Claims 1 - 19 under 35 USC § 103 as being unpatentable over Eckel, et. al., U.S Patent No. 4,877,673 ("Eckel") in view of Jackson, et. al., U.S. Patent No. 6,611,995 ("Jackson"). The applicant respectfully traverses each of these rejections.

Analysis of references

Hill

Hill discloses a device for preventing kinks in a cable extending around the edge of a load. This device is specifically designed for securing to an I-beam, as shown in Figures 1, 2 and 4, to permit it to be lifted. In the Hill device U-shape cut outs are provided in a pair of flanges (17, 18). Running between these two cut outs is a C-shaped section. Both arms of this C-shaped section contain a pair of openings (23) through which bolts (19, 20) may be extended to tighten against the arm of the I-beam. The U-shaped section of the device is secured to an edge of the arm of the I-beam to hold the I-beam in position, as shown specifically in Figure 4. It is important to note the limited types of loads that can be lifted using the device of Hill. For example, if an edge of the load cannot fit within the U-shaped slot, it cannot be lifted using the Hill device. Thus, a stack of lumber or metal plates cannot be lifted using the Hill device. Applicant's device is far more useful for a broader array of products. The difference in shape between these products is thus important.

While there may be some similarities between the shape of the applicant's device and the device of Hill, and the Hill device may sometimes be used in a manner that is similar to the use of his device, there are also important distinctions. The USPTO acknowledged these distinctions by failing to reject a number of

the claims of the application based on Hill. Thus, the USPTO acknowledges that each of these non-rejected claims is not taught by Hill. One of the distinctions is contained in originally filed dependent Claim 7, which requires a cut out section comprising a wedge shaped piece, cut out from one end to the other end of the edge protector, wherein the angle of the arc of the cut out section is from 45 to 270 degrees. In order to overcome Hill, the applicant incorporated the limitations of this dependent claim into Claim 1. A similar incorporation of dependent Claim 13 into independent Claim 10 is also provided. By these amendments the applicant believes that he has overcome the rejection of Hill and removed Hill as a reference.

Eckel in view of Jackson

The USPTO rejected all claims of the application based on Eckel in view of Jackson. While the shape of the device of Hill may have similarities to that of the applicant's invention, there are significant differences in structure and shape between the devices disclosed in Eckel and/or Jackson and the applicant's device. In particular, the applicant's device, as claimed, contains a "cylindrical shaped" edge protector. None of the devices of Eckel or Jackson are cylindrical in shape nor is a cylindrical shape suggested. The cylindrical shape was picked by applicant for practical purposes because a lifting device formed in that shape provides substantial support for a load both while resting on the

ground and while being lifted. Similar support is not provided by the L-shaped devices of Eckel and Jackson.

In addition to the wear pad not being "cylindrical", the devices of Jackson and Eckel do not contain raised edges which "extend substantially around the circumference of the edge protector..." This structure is not present as there are no "circumferences" on the devices of Eckel or Jackson, as their devices are L-shaped with flat-arms.

In addition, when the wear pad of the applicant's device contains magnets, it is easier for attachment of those magnets within openings cut into the body of the applicant's cylindrical shaped device than the flat-armed devices of Eckel and Jackson.

An additional distinction between the applicant's device and the devices disclosed by Eckel and Jackson is that the devices of Eckel and Jackson do not contain a "wedge-shaped cut out section." In fact, there is no cut out section at all in Eckel or Jackson. Each of these devices are merely flat pieces which have been formed in a 90° angle so as to function as edge protectors.

In addition, neither Eckel nor Jackson contain one arm longer than the other arm, as required by dependent Claims 9, 12 and 19.

For all these reasons the applicant believes that the devices, as claimed, are distinctive from the devices disclosed by Eckel and Jackson alone or in combination.

CONCLUSION

The applicant believes that the claims of the application, as amended, are distinct over the prior art cited by the USPTO and requests the issuance of a Notice of Allowance. If there are any questions concerning this Amendment, please contact applicant's counsel.

Respectfully submitted,



Scott R. Cox
Reg. No. 31,945
LYNCH, COX, GILMAN & MAHAN, P.S.C.
500 West Jefferson St., Suite 2100
Louisville, Kentucky 40202
(502) 589-4215

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